

Memorandum



Date: (Second Reading 12-04-07)
October 16, 2007

To: Honorable Chairman Bruno A. Barreiro and Members
Board of County Commissioners

Agenda Item No. 7(G)

From: George M. Burdick
County Manager

Subject: Ordinance pertaining to zoning; Amending Section 33-18 pertaining to religious facilities and missions

Recommendation

It is recommended that the Board adopt the attached ordinance, which pertains to zoning and which amends Section 33-18 to eliminate lot size and frontage requirements with respect to religious facilities and missions.

Scope

The scope of this item extends to the unincorporated areas of Miami-Dade County.

Fiscal Impact/Funding Source

The proposed ordinance creates no fiscal impact on Miami-Dade County.

Tract Record/Monitor

Not applicable.

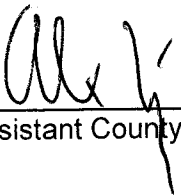
Background

Recent legal developments pertaining to religious facilities necessitate this change to the Miami-Dade County Zoning Code. Presently, Section 33-18 prohibits a religious facility or mission use on any site that comprises less than 2 ½ acres or frontage of less than 150 feet. Upon adoption of this ordinance, the Code will no longer include size or frontage requirements that are specific to religious facilities or missions.

Section 33-18 was adopted decades prior to the enactment of the Religious Land Use and Institutionalized Persons Act (RLUIPA). RLUIPA is a federal law, and it prohibits, among other things: (1) land use regulations that treat religious assemblies or institutions on less than equal terms with non religious institutions; and (2) land use regulations that unreasonably limit religious assembly. The County is presently defending a federal lawsuit filed by two religious assemblies. That litigation is currently stayed in anticipation of the County's adoption of legislation that would ensure compliance with RLUIPA. In the lawsuit, the parties allege claims under RLUIPA and the Florida Religious Freedom Restoration Act, as well as related constitutional violations.

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and Members, Board of County Commissioners
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The proposed ordinance will eliminate the acreage and frontage requirements for religious facilities and missions that are permitted as of right, as well as for religious facilities and missions that are permitted only upon approval by special exception. For reference, religious facilities and missions are permitted as of right in the several Residential Districts (RU-3, RU-3M, RU-4L, RU-4M, RU-4, and RU-4A); they are also permitted as of right in Business District and Industrial District zones within the Urban Development Boundary. Religious facilities or mission uses in other zones require approval at a public hearing as a special exception.



Assistant County Manager




MEMORANDUM

(Revised)

TO: Honorable Chairman Bruno A. Barreiro
and Members, Board of County Commissioners

DATE: December 4, 2007

FROM: 
R. A. Cuevas, Jr.
County Attorney

SUBJECT: Agenda Item No. 7(G)

Please note any items checked.

_____ "4-Day Rule" ("3-Day Rule" for committees) applicable if raised

_____ 6 weeks required between first reading and public hearing

_____ 4 weeks notification to municipal officials required prior to public hearing

_____ Decreases revenues or increases expenditures without balancing budget

_____ Budget required

_____ Statement of fiscal impact required

_____ Bid waiver requiring County Manager's written recommendation

_____ Ordinance creating a new board requires detailed County Manager's report for public hearing

_____ Housekeeping item (no policy decision required)

_____ No committee review

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No 7(G)

12-04-07

ORDINANCE NO. _____

ORDINANCE RELATING TO ZONING; AMENDING
SECTION 33-18 OF THE CODE OF MIAMI-DADE
COUNTY, FLORIDA, RELATING TO RELIGIOUS
FACILITIES AND MISSIONS; PROVIDING
SEVERABILITY, INCLUSION IN THE CODE, AND AN
EFFECTIVE DATE

**BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF
MIAMI-DADE COUNTY, FLORIDA:**

Section 1. Section 33-18 of the Code of Miami-Dade County, Florida is hereby
amended as follows:¹

Sec. 33-18. Religious facilities and schools in RU-5A, BU and IU districts.

- (a) Buildings used for public assemblage as defined in Section 33-17, where located in RU-5A, BU or IU Districts may be permitted with the same yard requirements and setbacks as required of the office, business or industrial buildings legally allowed in these districts.
- (b) With the exception of religious facilities no building for public assembly shall be permitted in IU-2 and IU-3 Districts unless directly connected with legally established industrial use.
- (c) Churches in RU-1, RU-2, EU-M, EU-1, EU-1C, EU-2, AU and GU Districts will be permitted only upon approval after public hearing; schools in GU, EU-2, EU-1C, EU-1, EU-S, EU-M, RU-1, RU-2, RU-1(M)(a), RU-1(M)(b), RU-TH, RU-5, RU-5A, PAD, IU-2, IU-3 and IU-C will be permitted only upon approval after public hearing, and shall be subject to compliance with the requirements of sections 33-151.11 through 33-151.22 of this code.

~~[(d) No church shall be constructed, operated or permitted upon any site that does not contain a minimum of two and one-half (2 1/2) acres of land area, including street dedications, and having a minimum contiguous frontage of at~~

¹ Words stricken through and/or [[double bracketed]] shall be deleted. Words underscored and/or >>double arrowed<< constitute the amendment proposed. Remaining provisions are now in effect and remain unchanged.

~~least one hundred fifty (150) feet abutting on a public street right of way. Off street parking facilities shall be provided and maintained within the land area of every church site in conformity with the requirements of Sections 33-122 through 33-132.~~

~~(e))~~>>(d)<< Duly constituted "missions" are ~~[[may be]]~~ permitted >>under the same conditions and in the same zoning districts that churches are permitted.<< ~~[[to operate upon sites containing less than the minimum land are hereinabove prescribed only upon approval after public hearing.]]~~ For the purposes of this section, >>a<< "mission~~[[s]]~~" shall mean any body, association, or organization for doing religious and charitable work, devoted entirely to the moral, religious and social improvement of those in need of such missionary work and assistance, which does not constitute a church but is sponsored by a duly constituted church.

Section 2. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section 3. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any sunset provision, shall become and be made part of the Code of Miami-Dade County, Florida. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

Section 4. This ordinance shall be come effective ten (10) days after the enactment unless vetoed by the Mayor, and if vetoed, shall be come effective only upon an override of this Board.

PASSED AND ADOPTED:

Approved by County Attorney as
to form and legal sufficiency:

Prepared by:

M. Leigh Macdonald

